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P.R. SX

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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19/174,042

10/16/96

HIRATH

J

ZTP-97-P-413

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EXAMINER

ANDERSON, G

ART UNIT

PAPER NUMBER

3624

DATE MAILED:

12/07/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/174,042

Applicant(s)

Hirath et al

Examiner

Jerry A. Anderson

Group Art Unit

3624

☒ Responsive to communication(s) filed on 27 Sep 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) 13 and 14 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3624

DETAILED ACTION

Response to Arguments

The applicant argues that Parker is not vacuum tight but referring to claim 1 of Parker the covering surfaces of the body are joined to **hermetically** inclose the filling. This hermetically enclosing is equivalent to the applicant's vacuum-tight connection.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11 and 12 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Parker. The board of Parker can be evacuated.

Claims 1-7, 11 and 12 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Schmidberger.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

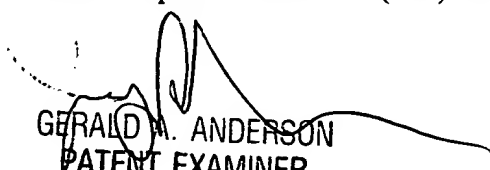
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 8-10 are rejected under 35 U.S.C. § 103 as being unpatentable over Schmidberger in view of Babbitt. Schmidberger is cited showing an insulated housing with a flange tube. Schmidberger, fails to describe in English whether the housing walls and tube are steel and welded. Babbitt is cited showing a evacuated insulating unit of any material and connected by welding for the purpose of providing a vacuum insulating unit. Since the references are from the same field of endeavor the purpose of Babbitt would have been obvious in the pertinent art of Schmidberger and it would have been obvious for one having an ordinary skill in the art to have modified Schmidberger with any material and connected by welding for the purpose of providing a vacuum insulating unit in view of Babbitt.

This action is NOT FINAL.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Gerald Anderson whose telephone number is (703) 308-2202.

gaa
December 6, 1999


GERALD M. ANDERSON
PATENT EXAMINER